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Supreme Court, U.S.
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No. _____

In The

Supreme Court of the United States

In Re Nina and Mazen Shahin,

Petitioners

VS.

Delaware Federal Credit Union (Del-One),

Respondent

On Petition For Writ Of Certiorari

To The Supreme Court of Delaware

PETITION FOR WRIT OF CERTIORARI

Nina and Mazen Shahin

In Pro Se Representation

103 Shinnecock Rd.

Dover, DE 19904

(302)678-1805

QUESTIONS PRESENTED FOR REVIEW

1. Is the State of Delaware that highly promotes "business friendly" environment of the State makes "business friendliness" such a high priority that it trumps the civil and constitutional rights of its diverse and the most vulnerable population by denying its citizens the benefits of the US Constitution and federal laws that were specifically adopted by Congress for their protection?

Will the highest Court in the land allow this case to become a "case of first impression" to impose on *pro litigants* award of the opposing attorney's fees and costs as a retaliation for their filing of previous Writ of Certiorari and a federal lawsuit in their search for justice?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

CORPORATE DISCLOSURE STATEMENT

Pursuant to the Supreme Court Rule 29.6 the petitioners state that they are not an incorporated entity or publicly traded company, nor are they a parent, subsidiary, or an affiliate of a publicly traded company, and, therefore, there is no publicly traded company owning 10% or more of the corporation's stock involved in this case on the part of the petitioners.

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IN THE

SUPREME COURT OF THE UNITED SATES

PETITION FOR WRIT OF CERTIORARI

Petitioners respectfully pray that a writ of certiorari and injunctive relief are issued to review the judgments below.

OPINIONS BELOW

[x] For cases from **state courts:**

- The opinion of the Delaware Supreme Court to review the merits appears at Appendix A to the petition and is unpublished.
- The Order of the Supreme Court on the merits of the case appears at Appendix B to the petition and is unpublished.
- The transcript of hearing on the award of attorney's fees to the defendant appears at Appendix C to the petition and is unpublished.
- The opinion of the Justice, Robert B. Young, of the Superior Court of Delaware and for Kent County on

the merits of the case appears at Appendix F to the petition and is unpublished.

JURISDICTION

[x] For cases from **state courts:**

The date on which the highest state court (Supreme Court of the state of Delaware) affirmed the decision of the Superior Court of Delaware is June 9, 2008. A copy of that decision appears at Appendix B.

[x] A timely petition for rehearing was thereafter denied on the following date: June 20, 2008 and a copy of the order denying rehearing appears at Appendix A.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. XIV[th] Amendment to the US Constitution

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. **No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of** life, liberty, or **property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

2. United State Code

Title 18, Part I, Chapter 73 § 1506 'Theft or alteration of record or process'

Whoever feloniously steals, takes away, alters, **falsifies**, or otherwise avoids any record, writ, process, or other proceedings, in any court of the United States, whereby

any judgment is reversed, made void, or does not take effect; ...

Shall be fined under this title or imprisoned not more than five years, or both.

Title 18, Part I, Chapter 73 § 1513(e) (first)

Whoever knowingly, with the intent to retaliate, takes any action harmful to any person,...for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

Title 18, Part I, Chapter 73, § 1515

(a) As used in sections 1512 and 1513 of this title and in this section-

...

(4) the term "law enforcement officer" means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal

Government or serving the Federal Government as an advisor or consultant-...

Title 42, Chapter 21, Subchapter 1, § 1985(2) 'Obstructing Justice; intimidating party, witness, or juror'

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influenced the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; **or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State**

or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws; (emphasis is added by Petitioners).

Title 18, Part I, Chapter 79, § 1621'Perjury generally'

Whoever-

(1) having taken an oath before a competent tribunal, office, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted

under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title, or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

3. Regulation B issued by the Board of Governors of the Federal Reserve System pursuant to title VII (Equal Credit Opportunity Act) of the Consumer Credit Protection Act, as amended (15 *U.S.C.* § 1601 *et seq.)*

12 C.F.R. § 202.9 'Notifications'

(a) *Notification of action taken, ECOA notice, and statement of specific reasons* – (1) When notification is required. A creditor shall notify an applicant of action taken within:

(i) 30 days after receiving a completed application concerning the creditor's approval of, counteroffer to, or adverse action on the application;

(ii) 30 days after taking adverse action on an incomplete application, unless notice is provided in accordance with paragraph (c) of this section;

(iii) 30 days after taking adverse action on an existing account; or

(2) *Content of notification when adverse action is taken.* A notification given to an applicant when adverse action is taken shall be in writing and shall contain a statement of the action taken; the name and address of the creditor, a statement of the provisions of § 701(a) of the Act, the name and address of the federal agency that administers compliance with respect to the creditor; and either:

(i) A statement of specific reasons for the action taken, or

(ii) A disclosure of the applicant's right to a statement of specific reasons within 30 days, if the statement is requested within 60 days of the creditor's notification.

The disclosure shall include the name, address, and telephone number of the person or office from which the statement of reasons can be obtained. If the creditor chooses to provide the reasons orally, the creditor shall also disclose the applicant's right to have them confirmed in writing within 30 days of receiving the applicant's written request for confirmation.

(b) *Form of ECOA notice and statement of specific reasons – (1) ECOA notice.* To satisfy the disclosure requirements of paragraph (a)(2) of this section regarding section 701(a) of the Act, the creditor shall provide a notice that is substantially similar to the following: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any

right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is [name and address as specified by the appropriate agency listed in appendix A of this regulation].

(2) *Statement of specific reasons.* The statement of reasons for adverse action required by paragraph (a)(2)(i) of this section must be specific and indicate the principal reason(s) for the adverse action. Statements that the adverse action was based on the creditor's ***internal standards or policies*** (emphasis added by the Petitioners) or that the applicant, joint applicant, or similar party failed to achieve a qualifying score on the creditor's credit scoring system are insufficient.

12 C.F.R. 202.17(b) 'Penalties and liabilities'

(1) Sections 706 (a) and (b) and 702(g) of the Act provide that any creditor that fails to comply with a requirement imposed by the Act or this regulation is subject to civil liability for actual and punitive damages in individual or

class actions. Pursuant to sections 704(b), (c) and (d) and 702(g) of the Act, violations of the Act or regulations also constitute violations of other Federal laws. Liability for punitive damages is restricted to nongovernmental entities and is limited to $10,000 in individual actions and the lesser of $500,000 or 1% of the creditor's net worth in class actions. Section 706(c) provides for equitable and declaratory relief to an aggrieved applicant in a successful action.

4. Fair Credit Reporting Act (15 *U.S.C.* § 1681 *et seq.)* that was enacted by the Board of Governors of the Federal Reserve System in its regulations in 2004 (16 *CFR* 601-629)

§ 619 'Obtaining information under false pretenses [15 U.S.C. §1681(q)]

Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined under title 18, United States Code, imprisoned for not more than 2 years, or both.

5. Delaware Superior Court Rules Of Civil Procedure:

Rule 7(b) Motions and other papers

(1) An application to the Court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, **shall state with particularity the grounds therefore**, and shall set forth the relief or order sought. **The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.** A motion or other paper shall be filed without backer.

Rule 8 General rules of pleading

(a) Claims for relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim or third-party claim, shall contain **(1) a short and plain statement of the claim showing that the pleader is entitled to relief and** (2) a demand for judgment for the relief to which the party deems itself entitled. Relief in the alternative or of several different types may be demanded.

Rule 11 Signing of pleadings, motions, and other papers: Representations to Court, sanctions.

(b) Representations to Court. By representing to the Court (whether by signing, filing, submitting, or later advocating) a pleading, written motions, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,-

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the court litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are

likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) Sanctions, **If, after notice and a reasonable opportunity to respond,** the Court determines that subdivision (b) has been violated, the Court may, subject to the conditions stated below, impose an appropriate sanctions upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violations.

(1) How initiated

(A) **By motion for sanctions under this rule shall be made separately from other motions** or requests and shall describe the specific conduct alleged to violate subdivision (b). It shall be served as provided in Rule 5, but shall not be filed with or presented to the Court unless, within 21 days after service of the motion (or such

other period as the Court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the Court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(B) On Court's initiative. On its own initiative, the Court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b) with respect thereto.

Rule 54 Judgment; costs

(d) Costs. Except when express provision thereafter is made either in a statute or in these Rules or in the Rules of the Supreme Court, costs shall be allowed as of course to the prevailing party upon application to the Court

within ten (10) days of the entry of final judgment unless the Court otherwise directs.

(i) Attorney fees. No appearance fees for attorneys will be permitted or taxed as costs in any actions or cause in the Superior Court.

Rule 90. Attorneys

(b) Withdrawal. Except as permitted by order of the Court, no attorney may withdraw and all appearing attorneys are required to continue as such and to perform the duties of counsel imposed by law, by the Delaware Lawyer's Rules of Professional Conduct, and the Rules of this Court. Withdrawal of an attorney ordinarily will not be considered as permissible ground for delay and relief under these Rules.

6. Uniform Commercial Code

Article 4 'Bank Deposits and Collections'

§ 4-103 Variation by agreement; measures of damages; sanctions constituting ordinary care

(a) The effect of the provision of this Article may be varied by agreement, but the parties to the agreement cannot disclaim a bank's responsibility for its lack of good faith or failure to exercise ordinarily care or limit the measure of damages for the lack or failure. However, the parties may determine by agreement the standard by which the bank's responsibility is to be measured if those standards are not manifestly unreasonable.

(e) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount that could not have been realized by the exercise of ordinary care. If there is also bad faith it includes any other damages the party suffered as a proximate consequence.

STATEMENT OF THE CASE

Petitioners, Mazen and Nina Shahin, are filing their second Petition for Writ of Certiorari. The first Petition for Writ of Certiorari filed by the same Petitioners on March 26, 2007, No. 06-1334 was denied. This is a second Petition filed by the same Petitioners against the same Defendant in a related case. There are three cases the Petitioners have or had against the same Defendant and there is a potential that all three would come before this Court; the Petitioners, therefore, feel a need to explain their relationship and their interplay.

- All three cases are related to the same check that the Petitioners deposited on June 20, 2005 at the Del-One (Delaware Federal Credit Union) branch. The check that had been drawn on a local bank was misclassified as non-local, an extended hold was placed on the check in error and on June 23, 2005 the first Non Sufficient Funds (NSF) charge was made to the Petitioners' account and on

June 26, 2005 a second NSF charge was made to the same account.

- On June 25, 2005, after receiving a first notice of NSF charges, one of the Petitioners visited the branch, talked to the Manager but was faced with intransigent and hostile attitude. As a result of that attitude the Petitioners decided to file a lawsuit the next day, i.e., June 26, 2005 at the Justice of the Peace Court No. 16 of Kent County of the state of Delaware and then after the second charge of NSF on June 26, 2005 they filed a second lawsuit on June 28, 2005. The second lawsuit filed at the JP Court on June 28, 2005 was appealed to this Court under No. 06-1334 and is known in the Delaware courts as "the first" although chronologically it was filed as the second.
- The case filed on June 26, 2005 and known as "the second" was sitting in the Delaware Court of Common Pleas of the Kent County for quite a while until the attorney for Del-One decided to push for a hearing on

appeal. Since numerous Petitioners' complaints about violations of their constitutional rights of 'due process' and 'equal protection' and personal insults of the Court of Common Pleas judge, Merrill C. Trader, directed towards the Petitioners, the hearing on appeal held on January 17, 2007 was actually the only hearing in all three cases at which the Petitioners were allowed to talk about facts and the law, to subpoena all witnesses they wanted and to question those witnesses at length. The only problem was that the hearing was held not in general courtroom but in private chambers of the judge, Merrill C. Trader, and although under another presiding judge (from a neighboring Sussex County) the Defendant, its attorney and witnesses had *ex parte* communications with the judge by assembling in a special room of the judge's chambers separate from a general public hall where the Petitioners were held before and after the hearing. The compliance officer of the Del-One and its main witness was allowed to stay in the room (in violation of the rule on

witnesses) for the entire hearing and as a result of those violations the transcript of the hearing was falsified in an attempt to plant evidence into the sworn testimonies of witnesses and one of the Petitioners' that the 'offer to pay' ....
(that was in a form of harassment and coercion that landed one of the Petitioners in emergency room of a local hospital) had been for something more significant than $35.00 of NSF charge that Del-One was obligated to pay back without any preconditions as soon as it learnt about the mistake according to the requirements of Regulation CC (12 CF*R* 229.12(b)). Access to the underlying tape of hearing to prove the falsifications was denied to the Petitioners by all Delaware courts including Supreme and on May 16, 2008 instead of filing a reply brief at the Delaware Superior Court the Petitioners filed a lawsuit in the federal court for the District of Delaware under 18 *U.S.C.*§1512(h) 'Tampering with a witness, victim, or an informant' that mandates extraterritorial federal jurisdiction of the offence that is also considered as a

'racketeering activity' under 18 *U.S.C.* §1961(1). The case has been recorded in federal court under the No. 08-295-GMS.

- In 2006 when it became clear to the Petitioners that they were denied opportunity to present any evidence in the Delaware Courts to prove their rights and claims under the federal law (Regulations CC) because of gross violations of their constitutional rights of 'due process' and 'equal protection' and the fact that Del-One had committed perjury as defined in 18 *U.S.C.* § 1621 and was on a pattern of continuous violations of different federal laws (Equal Credit Opportunity and Fair Credit Reporting Acts in addition to the Regulations CC) and also because of the denial of the Delaware judicial system to the Petitioners the opportunity to present a personal injury claim related to Del-One violations of Regulations CC (harassment in their 'offer to pay' that landed one of the Petitioners in the emergency room of the Kent General Hospital) Petitioners filed a third lawsuit in the

Delaware Superior Court seeking damages for different violations of federal statutes, perjury and personal injury in the amount of more than $100,000. **This case has been presently appealed by this Petition for Writ of Certiorari and Injunctive Relief**.

- This case, known as "the third" case was filed on October 20, 2006 at the Delaware Superior Court for Kent County. There was no any formal hearings in this case at which the Petitioners would have been present except the one on attorney's fees held on July 19, 2007 which the Petitioners refused to attend and which, therefore, was held in *ex parte* communications between the Del-One illegitimate attorney and the judge, Robert B. Young, who had committed felony of 'obstruction of justice' as defined by 18 *U.S.C.* § 1506 in "the first case" for which Writ of Certiorari was denied by this Court. The present case that has been appealed by this Petition has the following legal and procedural violations:

a) The original attorney in the case, (the same attorney that represented Del-One in "the first case", Gregory Morris) after filing the Defendant's Response to the Plaintiff's Complaint and Interrogatories filed a Substitution of Counsel Motion **(Appendix S)** with the new attorney, Montè T. Squire, from a firm of the presiding judge, Robert B. Young's, brother, Stuart B. Young, (Young Conaway Stargatt & Taylor LLP) filing an Entry of Appearance Form **(Appendix T).** Although withdrawal of one attorney and a substitution for another one has to be sanctioned by a judge per rule 90(b) of the Delaware Superior Court Rules of Civil Procedure no such order had ever been issued which makes the present attorney, Monté T. Squire, without legal right to represent Del-One and the former attorney, Gregory Morris, in violations of DE Superior Court rules of civil procedure and the Delaware Lawyers' Rules of Professional Conduct (canon 1.16(c). The Petitioners did not attach in the Appendix a Case

History Search (case No. 06C-10-027 RBY) which is available in LexisNexis 'File and Serve' service because it has so many pages and is available to the clerks of this Court who undoubtedly have access to LexisNexis service but they provided a copy of a Docket of the case in **Appendix P** because those two documents are different and represent an attempt (or an intentional negligence) on the part of the Delaware Superior Court personnel to cover up different procedural violations. The Petitioners though would hold a reservation about authenticity of the Case History Search at any particular moment because they have two different copies: one obtained from the court and the other mailed by LexisNexis and some of the entries discussed below have been omitted from the LexisNexis later version. In particular, the docket text reflects the date of 11/15/2006 (entry # 3) on which the Del-One's answer to complaint had been made allegedly by both attorneys when in fact it was made by the first attorney only and the second

attorney filed his Entry of Appearance form (**Appendix T)** two days later, i.e. on 11/17/2006 (entry #4). The Motion for Substitution of Counsel **(Appendix S)** was filed on 11/22/2006 and was not reflected in the Docket at all but is reflected in the Case History Search.

b) The new attorney, Montè T. Squire, filed his Motion for a Judgment on Pleadings apparently on 12/21/2006 **(Appendix H)** electronically. But he had sent a completely different Notice of the Motion to the Petitioners **(Appendix G).** The copy to the Petitioners was sent by a certified mail with a return receipt. The tracking number for that package is 7005 0390 0001 4164 9605 and the website for USPS shows that it had been delivered to the Petitioners' address the next day, i.e. December 16, 2006. So, Petitioners were served with a fraudulent Notice and, therefore, had no idea about the hearing on the Motion for a Judgment on Pleadings scheduled for January 19, 2007 at 11:00 AM. This action of the attorney has all elements of fraud:

1. Concealment of past or present fact or nondisclosure where there is a duty to disclose; **2.** The statement is false; **3.** The intent to deceive or negligence in misleading the victim; **4.** The defendant intends to have the victim rely on the statement or has reason to believe that the victim will rely on it; **5.** The victim actually relies on it; **6.** The victim suffers actual damages.[1] The Petitioners obtained the actual copy of the attorney's Notice filed with the Superior Court only after the attorney filed his Answering Brief at the Delaware Supreme Court during appeal proceedings and had that Notice in his attachments on page A-23. None of the Petitioners attended that hearing on the Motion. Attorney in his Motion for Attorney's Fees (**Appendix M, page 2,** superscript reference 2) contends that the hearing on January 19, 2007 took place, but no transcript of the hearing exists (?!). Delaware Supreme

[1] West's Legal Desk Reference, William P. Statsky et al. Bruce L. Hussey, Michael R. Diamond, Richard H. Nakamura, St. Paul, MN 1991, page 57

Court that upheld the decision of the Superior Court **(Appendix B, page 3,** paragraph 3) wrote the following: "Del-One answered Shahin's complaint and later filed a motion for judgment on the pleadings. Despite Shahin's contention to the contrary, the record reflects that Del-One's motion was properly noticed on December 21, 2006 with hearing date scheduled for January 19, 2007. Following the hearing..." It is difficult for the Petitioners to understand which "record" so "reflects" because the attorney cannot produce any other "record" except the certified mail sent to the Petitioners on 12/15/2006. The Petitioners also received two copies of the Motion from LexisNexis but neither copy has any Notice attached to it either of 12/15/2006 or 12/21/2006 version. The Petitioners filed their Pleadings on 01/19/2007 and the day and time stamp on the copy reflects the date of 01/19/2007 and the time of 9:30 am but since the Petitioner did not know about the scheduled hearing at 11:00 am on that day she filed her

Pleadings and left. It is important to note that the Petitioner's Pleadings although filed at 9:30 am (i.e. before the 11:00 am hearing) the Pleadings are docketed under # 8 on 01/19/2006 in the docket and the judge's granting "Plaintiff's Motion for Judgment" (?!) (It is supposed to be "Defendant's" Motion) is reflected under # 7 although the Pleadings were filed earlier. In Case History Search the Petitioner's Pleadings are recorded on 01/22/2007 at 3:29 PM and the decision of the judge on the Motion is recorded on the same date at 11:03 AM as if the Petitioner filed her Pleadings after the decision had been rendered which was not the case time wise. In the Case History Search there is no any mentioning of the 01/19/2007 date at all either as a date the Petitioners filed their response or the date any type of hearing that granted the Motion. So, if the hearing actually took place, as the justices of the Supreme Court and the attorney for the Defendant contend, it was *ex parte* between the judge and the attorney who had no

legal right to represent the Defendant. Petitioners were denied hearing on the Motion for Judgment on the Pleadings by fraud and, apparently, by collusion between the attorney and the judge of the Delaware Superior Court and the cover up for that fraud was provided by the Delaware Supreme Court justices.

In view of the above-mentioned facts it is questionable of how impartial and fair was the judge who committed 'obstruction of justice' in a related case and was very much interested in the present case to disappear. Analysis of the Delaware Superior Court decision **(Appendix F)** reveals that the judge did not make any references either to the Petitioners' Pleadings filed on 01/19/2007 at 9:30 AM, or to any facts, circumstances or documents discussed during the alleged hearing held on 01/19/2007. The only reference the judge consistently made throughout his entire decision was exclusively to the Petitioners' Complaint which is by its nature a very brief description

of the facts and circumstances of the case. This fact of omission of two very important and necessary sources of any verdict puts in question the legal validity of that decision. **Secondly,** the judge minimizes or completely omits the legal background and importance of the Petitioners' claims. The incident described by him as 'first' is actually a violation of section 4-103 of the Uniform Commercial Code and the relevant (by the same number) section of Title 6 of the Delaware Constitution that incorporated the UCC in its entirety. Subsection (e) of that section specifies the exact amount of damages in case of those section violations. Incident that the judge described as 'second' is a violation of Equal Credit Opportunity and Fair Credit Reporting Acts for which in relevant subsections of the statutes monetary damages are provided (12 CFR § 202.17(b)). 'In addition' part of the judge's analysis is the description of what were the charges of perjury as defined in 18 *U.S.C.* §1621 which also has its penalties

in fines and imprisonment but the judge does not even mention that as well as personal injury claim as a result of harassment and coercion inflicted upon the Petitioner by Del-One CEO in so called 'offer to pay'. Petitioners would question a speed with which the judge delivered his decision after alleged hearing on the Motion for a Decision on Pleadings and all that chicanery with recordings of the dates of his 'grant of the motion for a decision on pleadings', the Petitioners' Pleadings. They also would question the reason of the Judge's ignoring the existence of that document. They can provide only one explanation – the hearing in "the second case" that took place two days before, i.e. on January 17, 2007 with all of its flaws, violations, and falsifications of the transcript could not conceal the fact of perjury committed by Del-One employees during "the first case", and, therefore, provided material evidence of a sworn witness's testimony for this "third case" in which that perjury was specifically claimed as an injury for which

damages were sought. In the Petitioners' Pleadings that fact of the evidence existence was specifically mentioned.

c) And the final point that the Petitioners would like to make is the use of the doctrine of *res judicata* that the judge tried to invoke. It is questionable for a judge who committed 'obstruction of justice' by falsifying the lower court's decision in previous "the first case" to invoke the doctrine to bar the Petitioners' claims for damages in perjury and personal injury committed in the case in which their constitutional rights of 'due process and 'equal protection' were not simply severely limited but completely denied (see US Supreme Court decision in *Richards v. Jefferson County,* 116 S.Ct. 1761 (1996). As far as the rest of the claims that are based on federal statutes the Petitioners would like to analyze the judge's reasoning and his justification and refute them.

In his analysis the judge **(Appendix F, page 6)** lists 5 factors that all should be present for the doctrine of *res*

judicata to apply: (1) the court making the prior adjudication must have had jurisdiction over the subject matter of the suit and of the parties in it; (2) the parties to the prior action were the same parties, or their privies, in the pending case; (3) the prior cause of action was the same as that in the present case, or the issues necessarily decided in the prior actions were the same as those raised in the pending case; (4) the issue in the prior action were decided adversely to the contentions of the plaintiff in the pending case; and (5) the prior decree is final. (The reference is made to the Delaware case of *RSS Acquisition, Inc.*, 1999 WL 1442009, at *3-*4.). The Petitioners have separated the issues of perjury and personal injury that are related to "the first case" as mentioned above and the other issues enumerated by the judge that he related to the case the Petitioners had filed in the JP Court in April of 2005; decision in that case the judge considered as 'final'. As far as those enumerated claims of so called "poor services" are

concerned the necessary point number (3) is missing because the issue raised in the April case was the Regulation CC issue, i.e., the same as in the present three cases, but the "poor services" category in this case involves the issues covered by the 'Equal Credit Opportunity', 'Fair Credit Reporting' Acts and the Universal Commercial Code that are qualitatively different from the issues covered by the Regulation CC. So, the judge in his analysis provided not only the inadequate and incomplete analysis of the Petitioners' claims, but he also misapplied the principles of law.

d) The Petitioners appealed that decision of the Superior Court to the Supreme Court of Delaware on **01/22/2007**. On **02/23/2007**, i.e., one month later, the illegitimate attorney, Monté T. Squire, filed his Notice of Motion for Attorney Fees and Costs in the Delaware Superior Court **(Appendix I)** in violation of Rule 54(d) of the Superior Court that provides that the Motion for costs can only be filed within 10 days of the entry of final judgment unless

the Court otherwise directs and **54(i) that specifically prohibits award of attorney fees.** Moreover, the Superior Court at that point did not have a jurisdiction over the matter because of a timely appeal filed by the Petitioners. The attorney also noted the date of hearing on that motion as 03/02/2007. On 02/26/2007 the letter from the Superior Court went out indicating that the Motion 'was not filed properly according to the civil case management plan. It does not need to be noticed for a date. When the courtesy copy is filed with the Court it will be sent up to Chambers for consideration'. **(Appendix K).** Although rule 7(b)(1) of the Delaware Superior court Rules of Civil Procedure specifically requires motions to be in writing and the requirement of a written notice is satisfied if the Motion has a date of hearing, it is clear that there was a rush here to push that motion through the 'chambers' as soon as possible irrespective of any rules, law requirements, or judge's and the attorney's ethical standards. On **03/16/2007** the

judge of the Superior Court, Robert B. Young, who had no jurisdiction over the matter, issued a decision awarding $2,500 of attorney's fees **(Appendix E)** without hearing, without any reference to any law, precedent, rule of civil procedure and without any basis or justification to an attorney who had no legal right to represent the Defendant and who did not make a case of why the attorney's fees should be awarded in violation of all the rules and principles of law and requirements of canon 3.1 of the Delaware Attorneys' Rules of Professional Conduct to be paid by a party who are *pro se* litigants. On **03/20/2007** the attorney contacted the Petitioner by phone in his attempt to settle the case with that amount. In the transcript of hearing on the attorney's motion for fees and costs held on 07/19/2007 (**Appendix C, Page 3-4)** the attorney specifically mentioned the purpose of that telephone call: 'I did indeed try to contact Miss Shahin to talk about settlement, perhaps, if she's agree not to bring future litigation based on these same transaction and

occurrences, and she flatly rejected that.' **On 03/26/2007** the Petitioners filed their first Petition for Writ of Certiorari. The rush and violations of the law and procedure in awarding the attorney's fees by a court without jurisdiction was done apparently with a purpose to prevent the Petitioners from filing their Petition in the Supreme Court of the United States and potentially any future claims of violations of their civil and constitutional rights. Such concerted actions of the judge and the attorney are called 'obstruction of justice: **intimidating party,** witness, or juror' as it is qualified by 42 *U.S.C.* §1985(2) and it is also the evidence of collusion between the judge and the attorney with a specific purpose to deprive Petitioners from enforcing federal laws, to intimidate and harass them. Taking into consideration that the judge who awarded the attorney's fees in this case committed 'obstruction of justice' as defined by 18 *U.S.C.* § 1506 in a previous case, the question is whether his actions in this particular instance fall also under the

definition of 18 *U.S.C.* § 1513(e) 'Retaliation against a witness, **victim,** or an informant'? This question is posed because on March 16, 2007 the Petitioners had not filed their Petition with the US Supreme Court yet, it happened 10 days later.

e) After the Writ of Certiorari was denied in "the first case" the Delaware Supreme Court nullified all the briefs that had been filed with the Court in that case, vacated the decision of the Superior Court in the award of the attorney's fees and costs and remanded the case for a new hearing only on that point retaining the jurisdiction (?!) **(Appendix D).** After the attorney filed his updated Motion for Attorney's Fees and Costs **(Appendix M)** in which he made a lot of false claims (for example, that the proper notice of hearing on his Motion for a Decision on Pleadings was properly delivered, that the hearing took place, that the award of attorney's fees was discussed at that hearing) but without any justification for claiming the attorney's fees or reference to any law, precedent or

rule of the civil procedure one of the Petitioners filed her Motion-Protest with the Supreme Court **(Appendix N)** and the Plaintiff's Notice of Not Attending Hearing on July 19, 2009 at the Superior Court. The hearing was held on July 19, 2007 and the transcript of that *ex parte* hearing is reproduced at **Appendix C**. It is a remarkable document because it reflects the process of gross violations of the Petitioners' constitutional rights and is the evidence of unprecedented professional dishonesty of the judge and the attorney and their intent to retaliate against the Petitioner for what they called "harassment of attorneys" without providing any description of what exactly that harassment meant. The judge awarded fees on the basis of Rule 11(b) and (c) of the Rules of Civil Procedure of the Delaware Superior Court. It is important to note that the section does provide for sanctions that are similar to Rule 11 of the Federal Rules of Civil Procedure. The problem is that sanctions can be imposed ***only if*** conditions mentioned in

Rule 11(b)(1), (2), (3), or (4) are proven to exist and none had been even mentioned either by the judge or the attorney. Sanctions can be originated by a Motion under that specific rule only and not by a Motion for attorney's fees that had not any justification or any reference to any rule of law under which those had been requested. Vague description of harassment does not meet the standard when the lawsuit was filed on the basis of actual violations of federal laws, federal felony of perjury and personal injury inflicted as a result of illegal coercion and insults. If the first incident of imposing attorney's fees on 03/16/2007 might not meet the definition of 'retaliation' because no fact of 'providing to a law enforcement officer information relating to the possible commission of Federal offense' had occurred at that point of time, the second decision of the Delaware Superior Court issued on July 20, 2007 was definitely a retaliation falling under the provision and definition of 18 *U.S.C.* §1513(e) and was made under the direct order from the

Delaware Supreme Court that retained jurisdiction over the matter.

Final remark regarding timing in this case is very important. All the judges' decisions and motives are obvious, clear and supported by current or subsequent events. After the July's 2007 decision of the Superior Court awarding attorney's fees there was a hearing in September of 2007 on a Petitioners' Motion for access to the tape of hearing at Court of Common Pleas that the Petitioners alleged had been tempered with but it was not until December of 2007 when the Petitioner specifically requested a decision on that Motion that the Delaware Superior Court denied the access. So did the Supreme Court and the Petitioner instead of filing a reply brief filed a lawsuit in the federal court under 18 *U.S.C.* § 1512(h) on 05/16/2008 that was recorded in the court on **05/20/2008**. On **06/09/2008** the Supreme Court affirmed the decision of the Superior Court **(Appendix B)** which the Petitioners consider as another act of

retaliation because of their reporting to a federal judge (who is a 'law enforcement officer' by definition of 18 *U.S.C.* §1515(4)) of a possible commission of the crime that is considered as a "racketeering activity" under 18 *U.S.C.* § 1961(1). Analysis of the facts and the applicable law contained in that decision of the Supreme Court is completely inadequate for any decision which commands a legal weight of a competent Court. Their reference to the rule 11 and analysis of application of that rule to the Petitioners' case is laughable. Case mentioned in superscript reference 4 does not deal with frivolous litigation and the reference to rule 11 sanctions is incidental in this case of alleged sexual harassment. Moreover, "frivolous litigation" is not the same as "unwarranted litigation" as the Supreme Court defined but it did not explain the difference in use of the words or justification for such a use. After the Petitioners filed a Motion for Rehearing in June of 2008 in preparation for filing Petition for Writ of Certiorari with the Supreme

Court of the United States Petitioners received a letter dated **07/10/2008** from the illegitimate attorney demanding a payment of awarded attorney's fees and threatening with legal procedures to enforce that decision **(Appendix U)** which is another indication of coordinated efforts of judges and the attorney to intimidate and coerce the Petitioners with retaliatory measures to prevent them from filing their Petition for Writ of Certiorari.

REASONS FOR GRANTING THE PETITION

1. Supreme Court of the United States is the court of last resort in defending constitutional rights violated by other courts especially the constitutional rights of 'due process' and 'equal protection' that are supposed to guarantee the fairness and evenhandedness of the US judicial process to everybody and especially to *pro se* litigants.

Definitions of 'due process' and 'equal protection' of the Fourteenth Amendment to the Constitution of the United States that were developed over the years by courts established, as necessary prerequisites, 7 elements necessary to determine whether the violation of those rights occur, five of which apply to the Petitioners' case: 1. Notice, 2. Hearing, 3. Impartial Tribunal, 4. Confrontation and Cross-Examination, 6. Decision on Record. The fifth and seventh elements of Discovery and Counsel respectively do not apply to this case, and, therefore, are not analyzed here. The substantial, if not exclusive, contribution to the development of the definitions of those elements belongs to

the Supreme Court of the United States. "Procedural due process rules are meant to protect persons not from the deprivation, but from the ***mistaken or unjustified*** deprivation of life, liberty, or property" (emphasis added by the petitioners), *Carey v. Piphus,* 435 U.S. 247, 259 (1978). Since petitioners' case is related to a debt claim which is a claim for property (money is considered property) the analysis of the requirements developed by case law that follows is relevant in regard to the last of those three pillars (life, liberty and **property**) for the protection of which the "due process" and "equal protection" clauses of the Fourteenth Amendment are specifically intended.

1. Notice "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them ***an opportunity to present their objections***", (emphasis added by the petitioners) *Mullane v. Hanover Bank & Trust Co.*, 339 U.S. 306, 314

(1950). See also *Richards v. Jefferson County,* 116 S. Ct. 1761 (1996) (*Res Judicata* may not apply where taxpayer who challenged a county's occupation tax was not informed of prior case and where taxpayer interests were not adequately protected). "The notice must be sufficient to enable the recipient to determine what is being proposed and what he must do to prevent the deprivation of his interest", *Goldberg v. Kelly,* 397 U.S. 254, 267-268 (1970). Ordinarily, service of the notice must be reasonably structured to assure that the person to whom it is directed ***receives it*** (emphasis added by the petitioners), *Armstrong v. Manzo,* 380 U.S. 545, 550 (1965); *Robinson v. Hanrahan,* 409 U.S. 38 (1974); *Green v. Lindsey,* 456 U.S. 444 (1982). **We, the Petitioners, were served a fraudulent Notice of hearing on the Defendant's Motion for a Decision on Pleadings and thus, were unable to attend that hearing, the fact denied by the Delaware Supreme Court without reference to the record on basis of which they came to that conclusion.**

2. Hearing "Some form of hearing is required before an individual is finally deprived of a property interest", *Mathews v. Eldridge,* 424 U.S. 319, 333 (1976). ***"Parties whose rights are to be affected are entitled to be heard"*** (emphasis added by the petitioners), *Baldwin v. Hale, 68 U.S. (1 Wall.) 223, 233 (1863).* **The only hearing held in this case was the one on the attorney's fees and costs by a court without jurisdiction over the matter and which the Petitioners refused to attend.**

3. Impartial Tribunal Just as in criminal and quasi-criminal cases (*Tumey v. Ohio,* 273 U.S. 510 (1927) "an impartial decision maker" is an "essential" right in civil proceedings as well (*Goldberg v. Kelly,* ibid above, pages 254, 271). "The neutrality requirement helps to guarantee that life, liberty, or property will not be taken ***on the basis of an erroneous or distorted conception of the facts or the law...***(emphasis added by the petitioners) At the same time, it preserves both the appearance and reality of fairness... by

ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him", (*Marshall v. Jerico, 446 U.S. 238, 242 (1980)).* **There was no any impartiality either from the judge of the Delaware Superior or the justices of the Delaware Supreme Courts who ignored all the violations of the law and procedures by the attorneys (both, the original and the substituted) but held the Petitioners to the standards of the Rule that was even inapplicable to them. There is substantial evidence that the judge and the justices were not only lacking impartiality but also took actions that are considered either intimidating, coercive or retaliatory in nature.**

4. Confrontation and Cross-Examination "In almost every setting where important decisions turn on question of fact, due process requires an opportunity to confront and cross-examine adverse witnesses" (*Goldberg v. Kelly,* Ibid above, pages 254, 269). Where the "evidence consists of the

testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or person motivated by malice, vindictiveness, intolerance, prejudice, or jealousy, the individual's right to show that it is untrue depends on the right of confrontation and cross-examination" (*Green v. McElroy,* 360 U.S. 474, 496 (1959). **Since there were no any hearings in this case except for the hearing on attorney's fees and costs by a court without jurisdiction, there were no any confrontation or cross-examination in this case that would give the opportunity to the Petitioners to argue or present their case or arguments,**

6. Decision on the Record "The decisionmaker's conclusions as to a recipients' eligibility must rest solely on the legal rules and evidence adduced at the hearing...To demonstrate compliance with this elementary requirement, the decisionmaker should state the reason for his determination and indicate ***the evidence he relied on ...***" (emphasis is added by the petitioners) *(Goldberg v. Kelly,* 397, Ibid,

254,271). **Since there were no any hearings, confrontation, or cross-examination, the Petitioners' documents and evidence filed with the Courts were ignored and only original Complaint was analyzed in a corrupt and insufficient way.**

2. Reaching this stage for the second time The Petitioners come to a clear and obvious realization that *pro se* litigants in the state of Delaware cannot enforce the US Constitution and federal laws that were adopted to protect interests of new immigrants, religiously and ethnically diverse population, the poor, the disadvantaged or, in other words, all those who cannot afford the formal legal representation and for whose protection those laws were specifically intended. It is also a clear evidence of corruption and collusion in the Delaware court system at all levels from the Justice of the Peace to the Supreme Court between the judges, attorneys, and the court reporters that result in a complete mockery of justice, gross violations of civil rights, insults and humiliations in court rooms, falsifications of

facts, misapplication of laws, tempering with evidence (sworn testimonies of witnesses) and finally not only inability to enforce the US Constitution or federal laws that were supposed to protect the rights of the state citizens but also intimidation, coercion, and retaliation for a strong desire to seek justice in strong belief that the Petitioners emigrated to the country that respects laws and rules of procedure. It appears that in Delaware the rules of procedure are applied only to *pro se* litigants however erroneously or corruptly but are not applicable to attorneys **(Appendix Q and R).** There is a question of legitimacy of the decision made by a court without jurisdiction with a sole purpose of intimidation, coercion and/or retaliation. Under federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in

executing such judgments or sentences, are considered, in law as trespassers." (*Elliot v. Piersol,* 1 Pet. 328, 340, 26 U.S. 328, 340 (1828). The U.S. Supreme Court, in *Schuer v. Rhodes,* 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974) stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he "comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States." (Emphasis supplied in original). Whenever a judge acts where he/she does not have jurisdiction to act, the judge is engaged in an act or acts of treason. *U.S. v. Will,* 449 U.S. 200, 216, 101 S.Ct. 471, 66 L.Ed.2d 392, 406 (1980); *Cohens v. Virginia,* 19 U.S. (6 Wheat) 264, 404, 5 L.Ed. 257 (1821).

3. It is also become quite clear that the judges, attorneys, and court reporters and other court personnel in Delaware

operate as a 'racketeering organization' that precludes the possibility of any just solution to a party in a *pro se* representation. The Petitioners have enough evidence to prove that felonies under 18 *U.S.C.* §§ 1512(c)(1) and 1513(e) had been committed by the court officers actions that bring the Petitioner's charges against the state court officials and state attorneys under the Racketeer Influenced and Corrupt Organization Act as defined in 18 *U.S.C.* § 1961(1). The elements of 'intent to retaliate', 'taking action harmful' to a victim and 'for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense' are there for everybody to see. 18 *U.S.C.* § 1515(4) definition of the term of 'law enforcement officer" as **an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government** or serving the Federal Government as an adviser or consultant'-, puts the federal district judge and the justices of the United

States Supreme Court under that definition. (Emphasis added by the Petitioners).

CONCLUSION

In view of gross of violations of the basic constitutional rights of 'due process' and 'equal protection', provisions of the federal laws that were adopted with a specific purpose of protecting consumers of different racial, religious and ethnical backgrounds as well as the poorest of the population in the atmosphere of complete and utter intolerance to the Petitioners' quest for justice with a clear intent to intimidate, coerce, and retaliate and sufficient evidence of 'racketeering activity' as defined in 18 U.S.C. §1961(1) against a foreign-born woman and a Muslim Petitioners request that this petition for Writ of Certiorari and Injunctive Relief against attorney's fees awarded by a court without jurisdiction be granted.

Respectfully submitted, Nina Shahin

Nina Shahin

Mazen Shahin

Date: 11/14/2008

APPPENDICES

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NINA SHAHIN,	§	
	§	No. 93, 2007
Plaintiff Below-Appellant,	§	Court Below:
	§	Superior Court of the State of Delaware in
v.	§	and for Kent County
	§	
DEL-ONE DELAWARE FEDERAL CREDIT UNION	§	
	§	
Defendant Below-Appellee.	§	

Submitted: June 16, 2008
Decided: June 20, 2008

Before **STEELE,** Chief Justice, **JACOBS** and **RIDGELY,** Justices.

ORDER

This 20th day of June 2008 the Court, having carefully considered the appellant's motion for reargument pursuant to Supreme Court Rule 18, of this Court's Order dated June 9, 2008, we conclude that the motion should be denied.

NOW, THEREFORE, IT IS ORDERED that the motion for reargument is **DENIED.**

BY THE COURT:

/s/Henry DuPont Ridgely
Justice

Appendix A

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NINA SHAHIN,	§	
	§	No. 93, 2007
Plaintiff Below-Appellant	§	
v.	§	
	§	Court Below-Superior Court
DEL-ONE DELAWARE FEDERAL CREDIT UNION	§	of the State of Delaware in and for Kent County
	§	C.A. No. 06C-10-027
Defendant Below-Appellee.	§	

Submitted: March 14, 2008
Decided: June 9, 2008

Before **STEELE,** Chief Justice, **JACOBS**, and **RIDGELY,** Justices.

ORDER

This 9th day of June 2008, upon consideration of the parties, briefs and the record below, it appears to the Court that:

(1) The Appellant, Nina Shahin, filed this appeal from a decision of the Superior Court, dated January 22, 2007, which granted the defendant, Del-One Delaware Federal

Credit Union's (Del-One) motion for judgment on the pleadings. Shahin also appeals the Superior Court's award of attorneys fees against her.[1] We find no merit to the appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Shahin, who is a Del-One customer, filed her complaint in the Superior Court in October 2006 for alleged ACCOUNTING MISTAKES MADE BY Del-One and other alleged incidents of poor customer service in connection with banking transactions conducted by Shahin and her husband in 2003, 2004, and 2005. Her complaint sought damages in excess of $100,000. Prior to

[1] Plaintiff filed her notice of appeal in this Court on February 20, 2007. After the notice of appeal was filed, Del-One filed a motion for attorneys fees in the Superior Court, which the Superior Court granted on March 16, 2007. We vacated the award of attorneys fees as improvidently granted because the Superior Court had no jurisdiction to act on Del-One's motion while Shahin's appeal was pending. Accordingly, we remanded the matter back to the Superior Court for a hearing and decision on the request for attorneys fees. Shahin failed to appear at the hearing. The Superior Court granted Del-One's motion for attorneys fees.

filing her complaint in October 2006, Shahin had filed lawsuits in other Delaware courts against Del-One alleging identical or nearly identical claims. Those other actions were resolved against Shahin.

(3) Del-One answered Shahin's complaint and later filed a motion for judgment on the pleadings. Despite Shahin's contention to the contrary, the record reflects that Del-One's motion was properly noticed on December 21, 2006 with a hearing date scheduled for January 19, 2007. Following the hearing, the Superior Court issued an opinion holding that Shahin's claims were barred by the doctrine of *res judicata* and otherwise failed to state any legally cognizable claim for relief. After filing her notice of appeal, this Court remanded the matter to the Superior Court for consideration of Del-One's motion for attorneys fees. Shahin notified the Superior Court of her intention not to appear at the hearing. The Superior Court held the hearing on July 19,2007,in Shahin's absence, and awarded Del-One a portion

of its fee request, $2984.79, as a sanction against Shahin[2] for bringing claims that were both factually and legally unwarranted.

(4) In her opening brief on appeal, Shahin contends that the Superior Court's rulings were both erroneous and an abuse of discretion. We disagree. The

Superior Court correctly determined that Shahin's claims were barred by the doctrine of *res judicata* and the rule against claim splitting because she had previously raised, or could have raised, the same claims in her previous lawsuits.[3] Moreover, we find no abuse of discretion in the Superior Court's award of attorneys fees to Del-One as a

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[2] *See* Super. Ct. Civ. R. 11(c) (2008)

[3] *See Maldonado v. Flynn*, 417 A.2d 378, 382 (Del. Ch. 1980) ("The rule against claim splitting is an aspect of the doctrine of res judicata and is based on the belief that it is fairer to require a plaintiff to present in one action all of his theories of recovery relating to a transaction, and all of the evidence relating to those theories, than to permit him to prosecute overlapping or repetitive actions in different courts or at different times.").

sanction against Shahin for repeated, unwarranted litigation.[4] Under the unique circumstances of this case, it appears that monetary sanctions may be the only means of deterring Shahin from filing future baseless claims. The Superior Court's award in this case took into account Shahin's status as a pro se litigant and awarded Del-One only a fraction of its actual attorneys fees incurred in defending against Shahin's frivolous claims.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

[4] *See Barker v. Huang*, 610 A.2d 1341, 1345 (Del. 1992) (noting that Rule 11 sanctions are appropriate to deter and punish frivolous litigation).

IN THE SUPERIOR COURT OF THE STATE OF

DELAWARE

IN AND FOR KENT COUNTY

NINA SHAHIN, C.A. No. 06C-10-027 RBY

Plaintiff,

v.

DEL-ONE,

Defendant,

BEFORE: HON. ROBERT B. YOUNG, JUDGE

APPEARANCES:

MONTE T. SQUIRE, ESQ.
YOUNG CONAWAY STARGATT & TAYLOR
For the Defendant

HEARING TRANSCRIPT
JULY 19, 2007

JEANNE CAHILL, RMR, CRR
SUPERIOR COURT OFFICIAL REPORTERS
38 The Green – Dover, Delaware 19901
(302) 739-5311

July 19, 2007
Courtroom No. 2
9:35 a.m.

PRESENT:

As Noted.

- - - - -

THE COURT: Good morning.

MR. SQUIRE: Good morning, Your Honor.

THE COURT: This is the motion for the remand on attorney's fees. Miss Shahin is not here, from her letter, is that correct?

MR. SQUIRE: She is not here, Your Honor.

THE COURT: I guess the first question is what the basis for the legal fees is.

MR. SQUIRE: Yes. May I?

THE COURT: Please.

MR. SQUIRE: Good morning, Your Honor. As you know, I think you're familiar with the facts in this case. It's been, I guess, for my client and ourselves, it's been a series of about 18 months of three different lawsuits effectively based on the same, the very same claim, originating from a $35 overcharge fee.

Since then, and I'll just speak in the litigation that I'm involved with, we've spent over $ 10,000 in fees on a motion for judgment on the pleadings, which we won. You Honor issued an order on our behalf.

We then filed the motion for fees, just because we think fees are appropriate, because there's really no other way for us to really deal with this case.

I mean, the plaintiff – and we're sure she's going to bring another case, likely, in the absence of some type of action from the Court. We think this is bad faith conduct. It's certainly not using the Court system the way it was intended to be used.

And we recognize that Miss Shahin is a pro se litigant, but we still think, Your Honor, she's required to adhere to Rule 11, and have a good-faith basis for her claim, and not use the Court system to harass either the attorneys, or more importantly, to harass my client.

THE COURT: So this really is a request for sanctions?

MR. SQUIRE: I think it's twofold, Your Honor. One other point, Your Honor. I did indeed try to contact Miss Shahin to talk about settlement, perhaps, if she's agree not to bring future litigation based on these same transaction and occurrences, and she flatly rejected that.

And again, I think in the absence of some type of Court action or some type of reprimand, we're going to be here again a few months from now.

THE COURT: I can appreciate your frustration. Have you come upon any case law or anything besides Rule 11 that supports this?

MR. SQUIRE: I think the case law – I didn't find anything that was specifically on point. And I think the case law, Delaware case law, goes the other way. There are not a lot of cases to deal with a pro se circumstance, so I think we're at the point where it's almost a case of first impression.

And admittedly, most of the cases that deal with this

issue, at least in the context of attorneys or folks admitted to practice before the Court, either pro hac or the like, have really kind of reverted to the American rule. So we understand that we're swimming uphill, upstream, but we think that I think it's within the discretion of the Court. Certainly, we're familiar with at least the Delaware Courts really imposing the American rule where parties typically pay for their own expenses.

THE COURT: Yeah.

MR. SQUIRE: However, in circumstances like this, where it's vexatious litigation or harassment, or there is a series of suits that are effectively based on the same claim that's already been resolved, we think that constitutes bad faith, and it's within the discretion of the Court to impose just sanctions.

And separately, we think under Rule 11, specifically, 11 Subsection (b), we think that the conduct of the client is

certainly in bad faith and constitutes harassment, and we think sanctions are appropriate, or some type of payment or recourse is appropriate; and we think it's in the Court's discretion to do so.

The motion sets forth that it's about $ 10,000. We understand that that may be more than the plaintiff is equipped to pay, but we think some amount at the Court's discretion is appropriate to kind of end this matter.

One other point, Your Honor, I did indeed try to contact Miss Shahin to talk about settlement, perhaps if she's agree not to bring

future litigation based on these same transactions and occurrences, and she flatly rejected that.

And again, I think in the absence of some type of Court action or some type of reprimand, we're going to be here again a few months from now.

THE COURT: I can appreciate your frustration. Have you come upon any case law or anything besides Rule

11 that supports this?

MR. SQUIRE: I think the case law – I didn't find anything that was specifically on point. And I think the case law, Delaware case law, goes the other way. There are not a lot of cases to deal with a pro se circumstance, so I think we're at the point where it's almost a case of first impression.

And admittedly, most of the cases that deal with this issue, at least in the context of attorneys or folks admitted to practice before the Court either pro hac or the like, have really kind of reverted to the American rule. So, we understand we're swimming uphill, upstream, but we think that something needs to be done.

I just know that the system is not set up to be using judicial resources and fees for this type of matter. There has to be some type of mechanism.

THE COURT: This --- we don't know about the future, course, but this case has run the course through

the Supreme Court and is over. Is that correct?

MR. SQUIRE: Yes, Well, the Supreme Court has remanded this particular issue.

THE COURT: Other that this remand for the ...

MR. SQUIRE: And the Court has said that once this issue is resolved, briefing will start again.

THE COURT: On this issue?

MR. SQUIRE: On --- it's my understanding it will start anew on the motion for judgment on the pleadings, because that was what was originally appealed, and this was just a part of that.

So based on my reading of the papers from the Supreme Court, this is going to start all over again on appeal right after this particular issue is resolved here.

(Discussion held off the record.)

THE COURT: All right. On representations by counsel for Del-One, and in the absence of any position to the contrary by the plaintiff, and a reasonable inquiry

pursuant to Rule 11(b) having been made, it's the finding of the Court that pleadings have been submitted which are not, to the best of the plaintiff's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, or have not been presented for proper purposes, or lack factual contentions with evidentiary support, or are not warranted under the evidence provided.

As a result, sanctions under 11(c) are appropriate, having been initiated properly by motion.

The sanctions indicated will be $2,984.79. The amount indicated reflects actual expenses as delineated by the motion of the defendant, and an additional $2500, which does not approach the amount of time compensation for this matter, but attempts to reflect the circumstances of the plaintiff in this case.

(Motion hearing adjourned at 9:45 a.m.)

IN THE SUPREME COURT OF THE STATE OF

DELAWARE

MAZEN and NINA SHAHIN,	§	
	§	No. 93, 2007
Plaintiffs Below,	§	
Appellants,	§	Court Below-Superior Court
	§	of the State of Delaware, in
v.	§	and for Kent County
	§	
DEL-ONE DELAWARE	§	C.A. No. 06C-10-027
FEDERAL CREDIT UNION,	§	
	§	
Defendant Below,	§	
Appellee,	§	

Submitted: May 22, 2007
Decided: June 11, 2007

Before **HOLLAND, BERGER** AND **JACOBS,** Justices.

O R D E R

This 11th day of June 2007, it appears to the Court that:

(1) The plaintiff-below/appellant, Nina Shahin, has appealed the Superior Court's order of January 22, 2007, that dismissed Shahin's complaint filed against defendant-below/appellee Del-One Delaware Federal Credit Union ("Del-One"). Shahin filed the notice of appeal on February

20, 2007.

(2) On February 26, 2007, Del-One filed a motion for attorney's fees in the Superior Court. The Superior Court issued a ruling on Del-One's motion on March 16, 2007.

(3) Based upon a limited review of the record, the Court has concluded that the Superior Court was without jurisdiction when it ruled upon Del-One's motion for attorney's fees because that motion was not pending at the time Shahin filed this appeal[5]. Shahin's appeal filed on February 20, 2007, invoked the jurisdiction of the Court and serve to preclude further Superior Court proceedings as of that date.[6] Consequently, the Court will vacate the Superior

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[5] Compare *Lipson v. Lipson*, 799 A.2d 345 (Del. 2001)

[6] *Boven v. E.I. DuPont de Nemours and Co., Inc.*, 879 A.2d 920, 922 (Del. 2005) (citing *Radulski v. Delaware State Hosp.*, 541 A.2d 562, 567 (Del. 1988); *Eller v. State*, 541 A.2d 562, (Del. 1988); *Dixon v. DCSE/Dixon*, 1993 WL 102557 (Del. Supr.).

Court's March 16, 2007 order on attorney's fees as improvidently issued and will remand this matter to the Superior Court for further proceedings.

(4) The Court will take no action with respect to the parties' pending submission on appeal as those filings are hereby rendered null and void.[7] The Clerk will issue a new brief schedule to the parties upon the Superior Court's return of this matter from remand.

NOW, THEREFORE, IT IS ORDERED that:

A. The Superior Court's order of March 16, 2007, is VACATED, *sua sponte,* and this matter is REMANDED, with jurisdiction retained, to the Superior Court for a hearing on Del-One's motion for attorney's fees.

B. The Superior Court is directed to issue a written decision on Del-One's motion for attorney's fees sixty

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[7] Those submissions include Shahin's motion to vacate and all related responses, e.g., Shahin's "Motion Filed under Rule 30(b)," Shahin's opening brief and appendix, and Del-One's motion to affirm.

days ad file with this Court a transcript of the hearing on remand[4].

BY THE COURT:

/s/ Carolyn Berger
Justice

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4 Del. Supr. Ct. R. 19(c)(2007).

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

NINA SHAHIN, Plaintiff,	)	C.A. No.: 06C-10-027 RBY
v.	)	NON-ARBITRATION
DEL-ONEDELAWARE FEDERAL CREDIT UNION	)	TRIAL BY JURY DEMANDED
Defendant.	)	

ORDER

AND NOW, upon consideration of Defendant Del-One Delaware Federal Credit Union's Motion for Attorney's Fees and Costs and good cause for the Motion having been shown and upon finding that Defendant is entitled to judgment in its favor,

IT IS HEREBY ORDERED, this 16th day of March, 2007, that the Defendant's Motion for Attorney's Fees and costs (inserted at this point in handwriting script over the typewritten text "in the amount of $2,500.00") is GRANTED.

/s/Robert B. Young
Judge Robert B. Young

APPENDIX E

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

NINA SHAHIN	:	
	:	
Plaintiff,	:	C.A. No. 06C-10-027 (RBY)
	:	
v.	:	
	:	
DEL-ONE Delaware Federal Credit Union, et al.,	:	
	:	
	:	
Defendants	:	

ORDER

On October 20, 2006, Nina Shahin, (Plaintiff) filed a *pro se* complaint against the Defendant, Del-One Delaware Federal Credit Union. The Defendant, after answering the complaint filed a Motion for Judgment on the Pleadings or a Motion to Dismiss.[1] For the following reasons, the motion should be **GRANTED.**

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[1] The Defendant's answer, which claimed an affirmative defense of the Plaintiff's failure to state a claim upon which relief can be granted, adequately preserved its ability to make a separate motion raising a defense under Superior Court Civil Rule 12(b)(6).

FACTS

In her Complaint, the Plaintiff avers that between 2003 and 2006, the Defendant "provided poor service, violated fiduciary duties owed to [her] as a financial institution entrusted with safekeeping and management of public money, verbally insulted and harassed [her] and [her] husband and a direct and proximate result of those actions [she] and [her] husband sustained financial, physical and emotional damages". The Plaintiff lists six incidents that inflicted the above damages. First, in October 2003, a bi-weekly payment on her car loan was deducted from her account but was added to the balance of the loan rather than being subtracted and it took a month for the Defendant to correct the mistake. Second, in May 2004, the Plaintiff applied for home equity loan. The Defendant initially stated it was due to a poor credit, but then stated it was due to the form of the ownership of the property. The Plaintiff stated

the whole conversation over this was "nothing short of harassment in which the CEO tried to force [her] to accept the poor level of services provided by the Defendant". Third, in December 2004, the Plaintiff deposited a check of $ 5,000 from a credit card company into her daughter's account. According to Plaintiff's allegation, a few days later, the bank called and informed the Plaintiff there was not enough money to cover the check. The Plaintiff states she was forced to go to the bank and have an employee listens to a recording that states there was enough money to cover the check. The Plaintiff asserts the absence of any apology from the manager over this. Fourth, on March 22, the Plaintiff realized there was not enough money in her account to cover pending payments. The next day, the Plaintiff rushed to the bank to deposit the difference, but it was subjected to insufficient funds charge. Fifth, the Plaintiff states that on June 20, 2005, her husband made a deposit. The deposit was classified as non-local and the funds were not available

for seven days, triggering a shortage of funds and additional charges for insufficient funds. The Plaintiff stated in her complaint that this was the subject of one of her previous lawsuits that is not before the D laware Supreme Court. Finally, the Plaintiff cites "other incidents" in 2006 that "demonstrated the unwillingness of the branch manager...to provide assistance to the [P]laintiff and the [P]laintiff's husband." In addition, the Plaintiff cites the false statements of fact made by the Defendant, its attorney and its employees and a harassing phone call between the Plaintiff's husband and the Defendant's CEO as additional ways in which she has been aggrieved.

According to the Complaint, the Plaintiff seeks: $ 50,000 for the perjury committed by the Defendant in the other matters she raised in the Justice of the Peace Court, the Court of Common Pleas and the Superior Court; $35,000 for the damages to her health, wellbeing, and risk of life to her husband and the insult to herself by the Defendant's Chief

Financial Officer; $15,000 for continuous poor customer services by the branch manager that amounted to dereliction of duties; and $5,000 in compensation for pain, suffering and emotional distress inflicted on the plaintiff and her husband because of poor services, financial losses and court battles.

DISCUSSION

As the Plaintiff admits, this is not her first foray into the judicial system based upon allegations concerning the service she has received from the Defendant. The Defendant argues that the Plaintiff's claims in this Complaint are barred by the doctrine of *res judicata* because of her previous lawsuits. In addition, the Defendant seeks the dismissal of these claims pursuant to Superior Court Civil Rule 12(b)(6) due to the Plaintiff's failure to state a claim upon which relief can be granted.

To begin, *res judicata* ensures that "a final judgment upon the merits of a case are rendered by a court of competent jurisdiction may, in the absence of fraud or

collusion, be raised as an absolute bar to the maintenance of a second suit in a different court upon the same matter by the same party, or his privies." [2] *Res Judicata* bars claims that were raised as well as those that might be have been raised.[3] The lather types of claims, i.e., claims that might have been raised, are precluded under the rule against claim splitting.[4] This rule "is based on the belief that it is fairer to require a plaintiff to present in one action all of his theories of recovery relating to a transaction, and all of the evidence relating to those theories, than to permit him to prosecute overlapping or repetitive actions in different courts or at different times."[5] If the rule were otherwise, defendants would be subject to continual harassment from a multiplicity of suits arising from claims based on the same set of facts set

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[2] *Epstein v. Chatham Park, Inc.*, 153 A.2d 180, 184 (Del. Super. 1959).

[3] *See RSS Acquisition, Inc. v. Dart Group Corp.*, 1999 WL 1442009, at *3 (Del. Super.).

[4] *See Maldonado v. Flynn*, 417 A.2d 378, 382 (Del. Ch. 1980).

[5] *Id.*

forth in the initial litigation.[6] Additionally, "piecemeal litigation of a single cause of action is contrary to the orderly administration of justice."[7]

To determine if the rule against claim splitting has been violated, a court must look to the facts of each case and decide if the claim initially asserted, "transactionally defined, is identical to the claim [presently before it], even though the substantive theory of recovery asserted by [the plaintiff] in the two courts is different."[8] If the court so finds, then the plaintiff, to prevent dismissal, must "show that there was some impediment to the presentation of his entire claim for relief in the prior forum." [9] If the concludes that the plaintiff has not met this burden, then the court should assess whether *res judicata* may apply.[10] For *res judicata* to

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[6] *See Webster v. State Farm Mutual Automobile Ins. Co.*, 348 A.2d 329,334 (Del. Super. 1975).

[7] *Id.*

[8] Maldonado, 417 A.2d at 382.

[9] *Id.* 383-384.

[10] *Id.* 383.

be applied, five requisites must be met: (1) the court making the prior adjudication must have had jurisdiction over the subject matter of the suit and of the parties in it; (2) the parties to the prior action were the same parties, or their privies, in the pending case; (3) the prior cause of action was the same as that those raised in the pending case; (4) the issues in the prior action were decided adversely to the contentions of the plaintiff in the pending case; and (5) the prior decree is final.[11]

In the present case, only one of these actions the Plaintiff originally brought in the Justice of the Peace Court is final; that is, C.A. No. J0504026216, which was commenced on April 18, 2005. This matter meets all five elements of *res judicata*. Therefore, unless the Plaintiff can demonstrate an impediment to presenting her claim in that forum, *res judicata* precludes any further claims arising out

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[11] *RSS Acquisition, Inc.*, 1999 WL 1442009, at *3-*4.

of any interaction with the Defendant prior to April 18, 2005. Thus, no claims arising from the allegations listed in the first four bullet points under paragraph 3 of the Complaint can be raised by the Plaintiff in the present action.

To the extent that the rule against claim splitting does not preclude the claims made in the Plaintiff's Complaint, the Court holds that the Plaintiff failed to state a claim upon which relief can be granted. "To show entitlement of relief as required in Rule 8(a), the complaint must aver either the necessary elements of a cause of action or facts which would entitle the plaintiff to relief under the theory alleged."[12] The Plaintiff's whole Complaint, even including the parts precluded by *res judicata* is held together mainly by bare boned allegations of "poor service" or errors from which she has demonstrated no harm. Based

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[12] *American Ins. Co., v. Material Transit, Inc.*, 446 A.2d 1101, 1104 (Del. Super. 1982).

on the facts of the Complaint the Court finds no suggestion that the Plaintiff's allegations give rise to a basis for a cause of action against the Defendant. While the Court recognizes the Plaintiff is proceeding *pro se*, that does not excuse her from meeting the requirements necessary to maintain a cause of action in this Court.

Accordingly, the Defendant's motion is **GRANTED** and the Complaint is **DISMISSED** with prejudice.

SO ORDERED THIS 22nd day of January, 2007.

/s/Robert B. Young
J.

RBY/sal
oc: Prothonotary
cc: Parties

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

NINA SHAHIN,	)	
	)	
Plaintiff,	)	C.A. No. 06C-10-027 RBY
	)	
v.	)	NON-ARBITRATION
	)	
DEL-ONE DELAWARE FEDERAL CREDIT UNION)	)	TRIAL BY JURY REQUESTED
	)	
Defendant.	)	

NOTICE OF MOTION

PLEASE TAKE NOTICE that the attached Motion For Judgment On The Pleadings will be presented to the Court at the earliest convenience of the Court and counsel.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Monté T. Squire
Monté T. Squire, Esquire (No. 4764)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899-0391
Telephone: (302) 571-6713
Email: msquire@ycst.com
Attorney for Defendant Del-One Delaware Federal Credit Union

Dated: December 15, 2006

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

EFiled: Dec 21 2006 2: 59 PM EST

NINA SHAHIN,	)	**Transaction ID 13259356**
	)	
Plaintiff,	)	C.A. No. 06C-10-027 RBY
v.	)	NON-ARBITRATION
	)	
DEL-ONE DELAWARE FEDERAL CREDIT UNION)	)	TRIAL BY JURY REQUESTED
	)	
Defendant.	)	

NOTICE OF MOTION

PLEASE TAKE NOTICE that the attached Motion For Judgment On The Pleadings will be presented to the Court on January 19, 2007, at 11:00 a.m.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/Monté T. Squire

Monté T. Squire, Esquire (No. 4764)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899-0391
Telephone: (302) 571-6713
Email: msquire@ycst.com
Attorney for Defendant Del-One Delaware Federal Credit Union

Dated: December 21, 2006

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

NINA SHAHIN,	)	
	)	
Plaintiff,	)	C.A. No.: 06C-10-027 RBY
	)	
v.	)	NON-ARBITRATION
	)	
DEL-ONE DELAWARE FEDERAL CREDIT UNION	)	TRIAL BY JURY DEMANDED
	)	
Defendant,)		

NOTICE OF MOTION

PLEASE TAKE NOTICE that the attached Motion for Attorney Fees and Costs will be presented to the Court on March 2, 2007 at 11:00 a.m.

YOUNG CONAWAY STARGATT & TAYLOR

/s/Monté T. Squire

Monté T. Squire, Esquire (No. 4764)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899-0391
Telephone: (302) 571-6713
Email: msquire@ecst.com

Attorney for Defendant Del-One Federal Credit Union

Dated: February 23, 2007

APPENDIX I

(LETTER HEAD)
STATE OF DELAWARE

Lisa M. Robinson ***SUPERIOR COURT***
Prothonotary Kent County Courthouse
38 The Green
TELEPHONE: 739-5328
739-3184

February 26, 2007

Monte T. Squire, Esq.
P.O. Box 391
Wilmington, DE 19899

Re: Nina Shahin v. DEL-ONE DELAWARE FEDERAL CREDIT UNION
Civil Action 06C-10-027

Dear Mr. Squire,

Please re-file your Motion for Attorney's Fees and Costs. It was not filed properly according to the civil case management plan. It does not need to be noticed for a date. When the courtesy copy is filed with the Court it will be sent up to Chambers for consideration.

I apologize for the confusion and inconvenience to you.

Sincerely,

/s/ M. Cosgrove
Mei-Ling Cosgrove
Civil Case Manager to Judge Young

Cc: Nina Shahin

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

NINA SHAHIN,	)	
	)	
Plaintiff,	)	C.A. No.: 06C-10-027 RBY
	)	
v.	)	NON-ARBITRATION
	)	
DEL-ONE DELAWARE FEDERAL CREDIT UNION	)	TRIAL BY JURY DEMANDED
	)	
Defendant,	)	

NOTICE OF MOTION

PLEASE TAKE NOTICE that the attached Motion for Attorney Fees and Costs is submitted for consideration by the Court.

YOUNG CONAWAY STARGATT & TAYLOR

/s/ Monté T. Squire
Monté T. Squire, Esquire (No. 4764)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899-0391
Telephone: (302) 571-6713
Email: msquire@ecst.com

Attorney for Defendant Del-One Federal Credit Union

Dated: February 26, 2007

APPENDIX L

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

NINA SHAHIN,	)	
	)	
Plaintiff,	)	C.A. No. 06C-10-027 RBY
	)	
v.	)	NON-ARBITRATION
	)	
DEL-ONE DELAWARE FEDERAL CREDIT UNION,)	)	TRIAL BY JURY DEMANDED
	)	
Defendant,	)	

MOTION FOR ATTORNEY'S FEES AND COSTS

Defendant, Del-One Federal Credit Union ("Del-One") by and through the undersigned counsel, hereby moves this Court for an Order requiring Plaintiff to pay all of the attorney's fees incurred in connection with its defense of this action. In support of this motion defendant avers as follows:

1. On or about October 20, 2006, Plaintiff filed a Complaint against Del-One for alleged incidents involving banking transactions that occurred in October 2003, May 2004, December 2004, March 2005 and June 2005. (D.I. at ¶ 3).

2. Del-One filed its Answer and Affirmative Defenses to this action on November 15, 2006 (D.I. 9), and its Motion for Judgment on the Pleadings on December 21, 2006 (D.I. 12).

3. This suit was the latest in a series of lawsuits and appeals that Plaintiff has brought against Del-One over the past eighteen months, all involving meritless claims or claims that have either already been considered and decided in favor of Del-One on the merits in other courts of this State, or that were pending before other Courts of this State.

4. A hearing on defendant's Motion for Judgment on the Pleadings was held on January 19, 2007.

5. During that hearing the Court granted defendant's motion and ordered that based on the record and facts presented in the case, and request by counsel, that the Plaintiff be required to pay the attorney's fees and expenses incurred by Del-One to defend the case.[13]

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[13] All papers and prior filings in this case are incorporated herein by reference.

6. The Court entered a written Order in this matter on January 22, 2007.[14] (D.I. 24).

7. Attached to this motion is a declaration by the defendant's counsel, detailing the time, fees and expenses incurred defending this case. The total fees and disbursements of $10,207.53[15] are well in accord with usual practices and charges in this area of law, given the nature and extent of the case.

WHEREFORE, it is respectfully requested that as ordered during the January 19, 2007 hearing, the plaintiff be assessed the attorney's fees and costs by defendant in defending this action or another amount that the court

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[14] However, the written Order did not contain the provision for attorney's fees, and there is no transcript available from the January 19, 2007 hearing.

[15] Since the filing of the original motion, defendant has incurred an additional $3,742.74 in fees and expenses defending this case. Plaintiff has since filed a petition for writ of certiorari in the U.S. Supreme Court and an appeal in the Supreme Court of Delaware.

deems fair and appropriate.

YOUNG CONAWAY STARGATT & TAYLOR LLP

/s/ Monté T. Squire

Monté T. Squire, Esquire (No. 4764)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899-391
Telephone: (302) 571-6713
msquire@ycst.com

Attorney for Defendant Del-One Delaware Federal Credit Union

Dated: July 9, 2007

IN THE SUPREME COURT OF THE STATE OF DELAWARE

Mazen & Nina Shahin **Plaintiffs Below,** **Appellant,** **v.** **Del-One, Delaware Federal Credit Union** **Defendant Below,** **Appellee,**	**No. 93, 2007**

MOTION-PROTEST AND THE REQUEST FOR A COURT RULING

Plaintiffs-Appellants hereby file this Motion with the Supreme Court of the State of Delaware after receiving the Defendant's attorney's Motion for Attorney's Fees and Costs filed with the Superior Court of Delaware on July 9, 2007 copy of which is attached in the Exhibit A.

The Plaintiffs-Appellants protest the following:

1. The Delaware Supreme Court issued an order on June 11, 2007 vacate the Superior Court decision of March 16,

2007 awarding the opposing attorney fees in amount of $2,500 (Exhibit B). Although the Appellants in their motions raised the issue of judicial harassment and violations of their constitutional rights of "due process" and "equal protection" in submitting, processing and issuance of the court order on the attorney's fees, the Supreme Court used the reason of "lack of jurisdiction" claiming that the Plaintiffs-Appellants' timely appeal filed with the Delaware Supreme Court on February 20, 2007 left the Superior Court with no jurisdiction over the matter of attorney's fees filed by attorney in a Motion on February 26, 2007. It is surprising and illogical then for the Supreme Court to remand the issue back to the Superior Court for hearing on the issue over which it has no jurisdiction. The only explanation for such an illogical decision of this court can be given that the Supreme Court is trying to convey legitimacy to the unconstitutional decision of the Delaware Superior Court and the Appellants refuse to play any role in such a

spectacle.

2. It is obvious that the Delaware Supreme Court is trying to provide a cover up for the complete denial of the basic constitutional rights to the Appellants by the Superior court judge in a process in which there were no proper notice, any type of hearing, any necessary attributes of an adversarial process like confrontation and cross-examination and finally, no any reference to law, rules, regulations or case law neither in the attorney's motion nor in the judge's decision and actually made in violation of the Rule 54(i) of the Superior Court Rules of Civil Procedure. In addition, there are all indications that the attorney and the judge acted in collusion culminating in the attorney's call to the Appellant on March 22, 2007 (six days after that unconstitutional Superior Court decision of the judge Robert B. Young) with the desire to settle on the money of the judgment. It is because of that telephone call the Appellants raised the issue of judicial harassment that the Supreme Court decided

to ignore. It appears also that both the judge and the attorney violated their respective rules of professional conduct by filing, processing, and awarding the money on fraudulently filed motion on which the Superior Court had no jurisdiction.

3. The Supreme Court decision of June 11, 2007 in paragraph (4) also rendered null and void all filings of the parties to this court including Shahin's "Motion Filed under Rule 30(b)", "Shahin's opening brief and appendix, and Del-One's motion to affirm although no legal basis for such an annulment was given. It appears to the Appellants that the Delaware Supreme Court did not like the issue of collusion between the judges of Superior and Supreme courts and the corruption raised by the Appellants as well as the obvious violations by the attorney of the Del-One of all stipulations under which the Motion to Affirm can be filed. It is obvious that the Supreme Court is trying to provide the cover-up for all the violations of the Appellants' constitutional rights,

rules of civil procedures and professional standards by judges and the attorney.

The Appellants have no doubts that the hearing on July 19, 2007 at the Superior Court on the subject over which the court has no jurisdiction because there is no "final judgment" in this case that is a necessary attribute for award of any court costs (Rule 54(d) of the Superior Rules of Civil Procedure) is staged specifically to convey legitimacy to the process previously conducted in a way that rendered that process unconstitutional to arrive at the same outcome as before. As in the famous saying "Fool me once shame on you, fool me twice shame on me" the Appellants do not believe in honesty or impartiality of the judge who had previously falsified the decision of the Justice of the Peace Court, denied them the statutory provisions of the Regulations CC and awarded the attorney fees in violation of the Rule 54(i) of civil procedures of the Superior Court (Rule 54(i) specifically says that "No appearance fees for

attorney will be permitted or taxed as costs in any action or cause in the Superior Court"). Neither do they trust in honesty and professional integrity of the Supreme Court who consistently shielded judges and attorneys and provided cover-up for their violations.

The Appellants, therefore, put the Delaware Supreme Court on a notice that they will not attend the hearing on July 19, 2007 as a protest at the Supreme Court cover-up action to convey legitimacy to unconstitutional decision of the Superior Court awarding opposing attorney's fees especially since the Superior Court does not have jurisdiction over that matter until a "final judgment" issued by a Supreme Court on the appeal in this case.

Secondly, they respectfully request this court to issue a ruling on the attorney's violations of the Delaware Lawyers' Rules of Professional Conduct by lying to the court about the hearing held on January 19, 2007 (Canon 3.3(a)(1) that prohibits an attorney from making "a false statement of fact... and ...failed to correct a false statement of material

fact previously made to the tribunal") as well as submitting legally meritless Motion for Attorney's Fees in violations of rules of civil procedures of the Delaware Superior Courts (Canon 3.1 "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a goof faith argument for an *extension, modification, or reversal of existing law" (*emphasis added by Appellants).

Respectfully submitted on this 17th day of July, 2007, on behalf of the Plaintiffs-Appellants,

/s/ Nina Shahin
Nina Shahin

103 Shinnecock Rd.
Dover, DE 19904
(302)678-1805

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

NINA AND MAZEN SHAHIN, Plaintiffs	))Civil Action No.06C-10-027 RBY
DEL-ONE Delaware Federal Credit Union Former DE FEDERAL CREDIT UNION, Defendant	)

PLAINTIFF'S NOTICE OF NOT ATTENDING HEARING ON JULY 19, 2007

NOW COMES the plaintiffs and give a notice to this court that they will not attend a hearing on attorney's fees scheduled for July 19, 2009 for the following reasons:

1. This court is without jurisdiction on the issue for attorney's fees because the case is presently on appeal at the Superior Court and there is no "final judgment" rendered so far which is necessary for hearing the case for any cause for awarding court costs per rule 54(d) of the Superior Court Rules of Civil Procedure.

2. Even if the attorney's fees could be considered as court costs, the Rule 54(i) of Superior Court Rules of Civil Procedure specifically prohibits the award of the attorney fees by a Superior Court in any action and the attorney in his motion failed to indicate the reason why this rule should be disregarded. Failing to make a reference to a law that governs request of his Motion as well as specifying why the law should not be applied is a violation of Canon 3.1 of the Delaware Lawyers Rules of Professional Conduct.
3. Scheduling a hearing on a matter that has no legal substance because there is no legal precedent of awarding attorney's fees in a *pro se* representation, no jurisdiction, and so many violations of the law, procedure, and rules of professional conduct is nothing short of judicial harassment.

Submitted on behalf of both Plaintiffs

/s/Nina Shahin
NINA SHAHIN, CPA
For both plaintiffs
In *pro se* representation
103 Shinnecock Rd.
Dover, DE 19904
Tel. (302) 678-1805

July 17, 2007

SUPERIOR COURT – KENT COUNTY
AS OF 04/16/2007

06C-10-027 PAGE 1

FILED October 20, 2006 PERSONAL INJURY

JUDGE: RBY NON ARBITRATION

STATUS: NEW E-FILED: YES JURY TRIAL

PRO SE NINA SHAHIN

---- VS -----

SQUIRE MONTE' TERREL DEL-ONE DELAWARE FEDERAL CREDIT UNION, FORMERLY DE FEDERAL CREDIT UNION

10/20/2006	1	INITIAL COMPLAINT – PERSONAL INJURY–COURT TO SCAN DOCUMENTS – FILED PRO SE. (PRO SE – N. SHAHIN) LMR

10/23/2006		SUMMONS SENT TO KENT COUNTY SHERIFF FOR SERVICE UPON SEL-ONE DELAWARE FEDERAL CREDIT UNION, FORMERLY DE FEDERAL CREDIT UNION LMR
11/01/2006	2	WRIT RETURNED SERVED DEL-ONE DELAWARE FEDERAL CREDIT UNION FORMERLY DE FEDERAL CREDIT UNION BY LEAVING WITH JANE WASHINGTON, RECEPTIONIST ON 10/27/2006 (JIM HIGDON) LMR
11/15/2006	3	DELAWARE DEL-ONE'S ANSWER TO COMPLAINT (G.MORRIS/ M.SQUIRE)

		MSC
11/17/2006	4	ENTRY OF APPEARANCE OF MONTE T SQUIRE, ESQ. (M. SQUIRE) MSC
11/27/2007	5	PLAINTIFF'S ANSWER TO COMPLAINT (PRO SE) MSC
12/21/2006	6	NOTICE OF MOTION FOR JUDGMENT ON THE PLEADINGS (M. SQUIRE) MSC
01/19/2007	7	PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS GRANTED, JUDGE YOUNG WILL DO AN ORDER JUDGE YOUNG MSC
01/19/2007	8	PLAINTIFF'S RESPONSE TO MOTION FOR JUDGMENT ON PLEADFINGS (N. SHAHIN) MSC

01/22/2007	9	SO ORDERED, ON 01/22/2007 BY JUDGE YOUNG, ON 10/22/06, NINA SHAHIN FILED A PRO SE COMPLAINT AGAINST THE DEFENDANT, DEL-ONE DELAWARE FEDERAL CREDIT UNION. THE DEFENDANT, AFTER ANSWERING THE COMPLAINT, FILED A MOTION FOR JUDGMENT ON THE PLEADINGS OR A MOTION TO DISMISS. FOR THE FOLLOWING REASONS, THE MOTION SHOULD BE GRANTED.

SUPERIOR COURT – KENT COUNTY

AS OF 04/16/2007

06C-10-027 PAGE 2

ACCORDINGLY. THE DEFENDANT'S MOTION IS GRANTED AND THE COMPLAINT IS DISMISSED WITH PREJUDICE

JUDGE YOUNG

MSC

02/26/2007 10 DEFENDANT'S MOTION FOR ATTORNEY FEES

(M. SQUIRE) ESQ.

IN THE SUPREME COURT OF THE STATE OF DELAWARE

Mazen & Nina Shahin Plaintiffs Below, Appellants, v. Delaware Federal Credit Union Defendant Below, Appellee,	No. 93, 2007

MOTION FOR SANCTIONS AGAINST THE ATTORNEY, MONTÈ T. SQUIRE, UNDER THE DELAWARE SUPREME COURT RULE 33 AND THE FEDERAL RULE 11

The Appellants file this Motion because the violations of the rules of civil procedures and misrepresentations on the part of the attorney should stop and in order to deter such a behavior in future penalized.

The Appellants allege the following violations and misrepresentations that were committed by this attorney for which they seek the Delaware Supreme Court sanctions:

1. Mr. Montè T. Squire does not have a legal right to represent Delaware Federal Credit Union (Del-One). The substitution of the counsel was performed with violation of the Superior Court Rule 90(b).
2. Mr. Squire in his answering brief claimed that the Justice of the Peace Court # 16 entered decision in favor of the Del-One. This is not true. The Justice of the Peace Court entered decision in favor of Nina Mazen Shahin (copy of the decision is attached as Exhibit A to this Motion).
3. Mr. Squire claimed in his Answering Brief that he notified the Appellants of the hearing on his Motion for a Decision on Pleadings to be held on January 19, 2007 and attached on page A-23 a copy of the Notice (Copy of that Notice is attached as Exhibit B to this Motion).

This is not true. It appears that that Motion was electronically filed with the Superior Court on12/21/2007 and never mailed to the Appellants. The Appellants received a Notice filed on 12/15/2007 in which no date of hearing was mentioned (see a copy in Exhibit C). That notice was mailed to the Appellants in a certified envelope with a return receipt (copy of the top of that envelope is attached in Exhibit D). This attorney's claim means that either there was no any hearing that he alleged (and this is the reason why there was no transcript of the hearing) or there was *ex parte* hearing between the judge and the attorney and they "cooked" the decision against the Plaintiffs-Appellants that dismissed their claim.

4. The Attorney submitted his Motion for Attorney's fees without any reference to any law or rule of civil procedure and in violation of the Rule 54(i). He did not provide any justification for such an anomaly as required by the canon 3.1 of the Delaware Lawyers'

Rules of Professional Conduct.

5. He submitted his Motion at the time when the Superior Court had no jurisdiction over the matter because of the Appellant's timely appeal to the Supreme Court and in violation of the Rule 54(d).

The Appellants, therefore, seek sanctions against the attorney, Montè T. Squire, because it appears that the existing laws and rules of civil procedure do not apply to attorneys who practice against *pro se* litigants.

Respectfully submitted,

Date: January 4, 2008 **Appellants:**

/s/M. Shahin

Mazen Shahin

/s/N.Shahin

Nina Shahin

SUPREME COURT OF DELAWARE

CATHE HOWARD
Clerk

SUPREME COURT BUILDING
55 THE GREEN
DOVER, DE 19901

AUDREY F. BACINO
Assistant Clerk
LISA A. SEMANS
Chief Deputy Clerk
LATOYA S. BRADY
Senior Court Clerk

P.O. BOX 476
DOVER,DE 19903

(302) 739-4155
(302) 739-4156
(302) 739-8091

DEBRA J. ZATLOKOVICZ
Senior Court Clerk
DORIS BAILEY
Senior Court Clerk

January 7, 2008

Mr. Mazen Shahin
Ms. Nina Shahin
103 Shinnecock Rd.
Dover, DE 19904

RE: ***Shahin, Mazen et al., vs Del One Delaware Federal Credit Union,*** No. 93, 2007

Dear Mr. & Ms Shahin:

The Court has directed me to advise you that your document entitled "Motion for sanctions against the attorney Monte R. Squire under the Delaware Supreme Court rule 33 and the federal rule 11 " is stricken for being in violation of

Supreme Court Rule 34, a copy of Rule 34 is enclosed for your review.

Very truly yours,

/s/ LaToya S. Brady

/lsb
cc: Monte T. Squire, Esquire

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

NINA SHAHIN,	:	**CASE NUMBER: 06C-10-027 RBY**
Plaintiff,	:	**NON-ARBITRATION**
v.	:	
	:	**TRIAL BY JURY DEMANDED**
DEL-ONE	:	
DE FEDERAL	:	
CREDIT UNION	:	
Defendant	:	

SUBSTITUTION OF COUNSEL

PLEASE ENTER THE APPEARANCE of Monté T. Squire, Esquire, of the law firm of Young Conaway & Taylor, LLP, as attorney for Defendant Del-One Delaware Federal Credit Union.

PLEASE WITHDRAW THE APPEARANCE OF Gregory A. Morris, Esquire, as attorney for the Defendant Del-One Delaware Federal Credit Union.

LIGUORI,MORRIS&YIENGST YOUNG CONAWAY STARGAT&TAYLOR LLP

s/Gregory A. Morris
GREGORY A. MORRIS, ESQ

48 The Green
Dover, Delaware 19901
(302) 678-9900
Bar ID 3014
Attorney for Defendant

/s/ Monté T. Squire
MONTÉ T. SQUIRE, ESQUIRE

The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899-0391
(302) 571-6713
Bar ID 4764

SO ORDERED this (blank) day of (blank) 2006.

(blank)

JUDGE

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

NINA SHAHIN	:	**CASE NUMBER: 06C-10-027 RBY**
	:	
Plaintiff	:	
v.	:	**NON-ARBITRATION**
	:	
DEL-ONE DELAWARE FEDERAL CREDIT UNION:		**TRIAL BY JURY DEMANDED**
	:	
Defendant	:	

CERTIFICATE OF SERVICE

This is to certify that the Defendant's Substitution of Counsel was served to:

Nina Shahin
103 Shinnecock Rd.
Dover, DE 19904

Via First Class Mail on the 22 day of November, 2006

LIGUORI, MORRIS & YIENGST

/s/Gregory A. Morris
GREGORY A. MORRIS, ESQ.
46 The Green
Dover, Delaware 19901
(302) 678-9900
Bar ID 3014
Attorney for Defendant

DATED: 11/12/06

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

NINA SHAHIN,	)	
	)	
Plaintiff,	)	C.A. No. 06C-10-027 RBY
	)	
v.	)	NON-ARBITRATION
	)	
DEL-ONE DELAWARE FEDERAL CREDIT UNION	)	TRIAL BY JURY DEMANDED
	)	
Defendant.	)	

ENTRY OF APPEARANCE

PLEASE ENTER THE APPEARANCE of Young Conaway Stargatt & Taylor, LLP, by Monté T. Squire (No. 4764), as counsel of record in this action for Defendant Del-One Delaware Federal Credit Union in the above-captioned matter.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Monté T. Squire
Montée T. Squire, Esquire (No. 4764)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 198—6713
Telephone: (302) 571-6713
Email: msquire@ycst.com
Attorney for Defendant Del-One Delaware Federal Credit Union

Dated: November 17, 2006

APPENDIX T

YOUNG CONAWAY STARGATT & TAYLOR, LLP

(LETTERHEAD THAT MENTIONS ALL PARTNERS AND ATTORNEYS; ADDRESSES, TELEPHONES AND FAX NUMBERS OF ALL LOCATIONS. THAT INFORMATION IS OMMITTED DUE TO ITS CONSIDERABLE VOLUME)

July 10, 2008

BY CERTIFIED MAIL **CONFIDENTIAL**

Ms. Nina Shahin
103 Shinnecock Rd.
Dover, DE 19904

Re: *Shahin v. Del-One Delaware Federal Credit Union*
C.A. 06C-10-027 RBY

Dear Ms Shahin:

I write this letter on behalf of my client, Del-One Delaware Federal Credit Union in an effort to collect on a judgment. Enclosed is a copy of the Order, Dated June 9, 2008, entered by the Supreme Court of Delaware, affirming the judgment that was entered against you in the amount of $2,984.79 by the Superior Court of Delaware, I have also enclosed a copy of the original judgment dated July 20, 2007,

that was entered by the Superior Court of Delaware.

Please review these orders and make arrangements for payment to my client in accordance with the judgment in this action. If payment is not made in the amount of the judgment within 20 days, we have been authorized to institute proceedings against you to enforce the judgment.

Very truly yours,

/s/ Monté T. Squire, Esq.

MTS: mg
Enclosures